

EX-12  
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HB 161

## MONTANA MARIJUANA LAWS

### Introduction

Cannabis is a brain altering substance. Widely misused, it has demonstrated that it can cause considerable personal harm and negatively affect our aggregate economy, social structure, educational proficiency, governmental systems, and quality of living. Current Montana laws do not define, control, nor distribute marijuana in a manner that prevents or reduces it's many subtle difficulties. Those laws were intended to restrict use to that very small portion of the population that honestly needs it for pain, nausea, and appetite treatment. But the existing statutes contain flaws, lack of clearly understood definitions, and difficult-to-use controls which are so numerous that they have allowed misuse and abuse of the cannabis plant far beyond the original intent of the founding initiative #148. Because current statutes are rife with numerous problems, a sophisticated rewrite of big sky marijuana laws based upon the concept of fine tuning existing statutes is almost impossible. The complexity of needed marijuana control laws would require a massive effort and considerable time that is not available in this legislative session.

A growing tidal wave of Montana citizens is demanding that the current laws be immediately negated to stop misuse, and a new attempt be carefully undertaken to confine legal medical marijuana use to just those inhabitants who are incapable of relief through normal pharmaceuticals. In such cases, cannabis is a remedy of last resort, should be very limited in its availability, and should be instituted thru time consuming, thoughtfully considered laws and controls. But the first step should be the immediate elimination of the current, harm generating statutes.

### Marijuana Harms

Despite variations in body chemistry creating different reactions in individuals, solid, scientific medical research has identified many risks associated with cannabis use. Those hazards include brain damage, Ischemic stroke, reduction of memory, altered perception, mood changes, decreased psychomotor performance, restricted cognitive function, development of negative moods, increased irritability, social isolation, paranoid thinking, schizophrenia, shortened attention spans, suicidal thoughts, and various forms of psychosis. Crude, vegetable based marijuana has, potentially, so many harmful side effects, the federal Food and drug Administration can not legally approve it for use as medication.

Because of reduced cognitive function, plus the development of cranial neuron connections under the influence of the drug, many continuous users cannot recognize, and often deny, these negative effects. Most of these medical and psychological difficulties are hard to recognize until long term, consistent use makes them more obvious. Science has definitely established that development of many of these problems is greater if marijuana use begins during or before adolescence.

Cannabis can be addicting. Since January 2010, the Benefis Addiction Clinic in Great Falls has experienced a large increase in patients compulsively using marijuana. Counselors all over the state are finding clients who have used "Mary-Jane" continuously for extended periods and, when trying to quite, have displayed with-drawl symptoms similar to those experienced with addiction to methamphetamin, cocaine, heroin, and other hard drugs.

A detailed search of scientific literature cannot find any evidence that crude marijuana heals any known disease. It does not, by itself cure cancer, glaucoma, immunodeficiency virus, immune deficiency syndrome, multiple sclerosis, Crone's disease, amyotrophic lateral sclerosis, nervous system disorders, inflammatory or degenerative arthritis, nor any other identifiable medical malady. Its sole value is to mask the difficult symptoms of some physiological and psychological problems and their treatment while other medical methods cure the base illness.

Science has identified sixty-six types of cannabinols in marijuana. Some perform good functions, some have proven to be very harmful [particularly with excessive, long term use], and many others are neutral in their effects. While the cannabinol mix can vary considerably in different types of marijuana plants, it is impossible for agriculturally grown marijuana to provide exact amounts of any given cannabinol. Research has found that doses based upon vegetable cannabis products can vary considerably in the strength of many of its chemicals. Montana's laws do not regulate the strength of medical cannabis

chemicals, thus making its use as a medical treatment imprecise and raises the risk of over dose and addiction.

Some cannabinols are first absorbed by fatty tissue before extending their effect to the cranial region. THC, the most common cannabinol in marijuana plants, requires proportionally larger amounts to satisfy that tissue absorbance and still provide enough volume to flow through the blood system to the brain. That miniscule amount of THC large enough to be effective without over dosing defines the small therapeutic window that is so critical to its use. Excessive intake of marijuana to ensure adequate THC availability is a common occurrence. This often leads to over dosing which has been identified as a major component of marijuana addiction. Montana law does not prescribe, nor can the cannabis industry guarantee, exacting measurements of THC thus increasing addiction probability.

Crude, vegetable marijuana does not contain any chemicals in exact, specific amounts. Therefore, its use as a medical treatment involves considerable risk when compared to FDA approved pharmaceuticals. Because many cannabinol substances can remain in the human body in diminishing amounts for days and weeks [one study found minor traces in hundreds of patients who had been abstinent for a year], it can increase it's residual presence with over-lapping doses leading to more cannabinol in one's system than necessary for reduction of pain, nausea, and appetite stimulation. We have never found a continuously heavy user who could recognize such over dose conditions nor understand how to control them.

Science has identified over 400 separate contaminants in marijuana plants. Some of them are very harmful and can produce disastrous problems for patients. One notorious case involved a grower who established his plants in lead contaminated soil. He gave lead poisoning to 29 people before the problem was detected. There are no known scientific controls over marijuana growing operations in Montana that would eliminate agricultural contamination difficulties.

Another variable that is almost impossible to judge when acquiring marijuana is the exact strength of the product. The scientifically respected Marijuana Potency Project has proven that the power of marijuana strains can vary dramatically. The average potency of those on the market today are 400 percent stronger than those available just thirty years ago. Combine that fact with the proven trait of harvested cannabinols to loose strength when exposed to the air, and it becomes obvious that the marijuana available in Montana cannot be delivered in the exacting standards similar to those we require of government approved pharmaceutical medications.

In short, Medical use of crude marijuana, as provided by current state law, is often considered poor medical practice, cures nothing, is impossible to scientifically control as a medical dosage, and can create more harms than most accepted pharmaceuticals. It should only be used when safer, more medically established products do not achieve the necessary effect. Current state statutes do not restrict cannabis use to those perimeters.

#### Harms Caused By The current Montana Marijuana laws

The existing Montana marijuana laws have many problems. Some are too difficult to enforce uniformly, some are loosely worded allowing unintended interpretations, and others create complicated situations that allow marijuana use far beyond the intent, spirit, and purpose of Initiative #148 and Title 50 statutes. Because our state laws do not adequately control cannabis, medical marijuana has become more easily available to many people who do not strictly qualify for it. This situation has resulted in some horrific problems.

>School officials are telling us that in the class that graduated high school in our state in June 2010, 50% have smoked marijuana in the last year, 20% have done so in the last month, and 5% are using it daily. A school district psychological counselor from Great Falls testified to a recent Montana Legislature's Health and Human Services Commission that kids who are using it daily are often uneducable and are dropping out of school at many times the rate recorded before January 2010. Present Montana marijuana laws do not control this horrific, unintended misuse of the drug.

>From January through December, 2010, the number of teenage patients in emergency room visits to Benefis Hospital in Great Falls who named marijuana as their major abused substance jumped 136.4%. It is obvious, Statute 50 laws are so porous they have not controlled youthful misuse of the drug. In fact, it is

obvious that the inadequacy of current laws have led to a dramatic increase in teen use.

>The Cascade County Youth Court has found that in the last year, 98% of kids before the court for hard drug problems started out on more easily available marijuana. That is a strong indication that marijuana is now more closely associated with juvenile crime than alcohol. Again, the failure of Title 50 laws has contributed significantly to this difficulty.

>Recent findings in the State of Washington identified marijuana in 12.7% of fatally injured drivers. There is evidence that this same affect is establishing its self in Montana. Local police officers in Great Falls describe cannabis as the second most frequently detected psychoactive substance among vehicle operators. Thirty-seven highway deaths reported by the Montana Highway Patrol in the last year are documented as involving marijuana. If our state's laws successfully restricted cannabis use to just that small part of the population who cannot find relief in standard pharmaceuticals, this danger would be greatly reduced.

>A Great Falls business man who owns an establishment in a strip mall next to a "pot shop" noted that in the first two months of it's operation, 75% of the people attracted to that shop were youngsters. That relates to a per capita count of youthful users in that store that is far beyond the documented occurrence rate of medical-marijuana-treatable diseases state wide in that age category. Some of those youth readily admitted to becoming certified to acquire a green card by frauding an easily circumvented patient qualification system found in the law.

>The Montana Department of Corrections has published the fact that the percentage of parolees who use marijuana is ten times higher than the rate of users in the general population. Montana Department of Justice officials worried that many of the people on probation are skirting the law by falsely reporting they suffer from chronic pain in order to receive a doctor's recommendation to use cannabis. The United States Department of Justice establishes the fact that the 5 million criminal offenders who are on parole and probation in the U.S. are among the nations heaviest and most problematic marijuana users. Our state's correction officials feel this is true in Montana. Current Laws do not restrict or reduce marijuana use among big sky parolees.

>A certified construction contractor in Cascade County has noted that several of his carpenters have no medical problem but they own green cards. He says that they often legally smoke "pot" on breaks and at lunch and that they cannot use power equipment safely or accurately after cannabis use. When challenged, the affected workers perceive their work as being exceptionally good when under the influence of the drug. Because Title 50, Chapter 46 statutes do not adequately control cannabis availability, we are concerned that "mary-jane" is driving up work related injuries in a state already rated as very dangerous in that category.

>A Phd in Psychology who teaches at The University of Great Falls says several of her co-workers smoke marijuana almost every evening at home. She states that they are not aware of how that has affected their work related functions, but noted they seem to have developed a culture of anger, cynical criticism, paranoia, and distrust that is affecting their working relationships with nonusers. The psychologist laments that none of them have a demonstrated history of medical problems that would justify cannabis use. Current Montana statutes are obviously allowing such easy availability of cannabis that such people as these can get it without the requisite illnesses.

> When a Great Falls youth was questioned in front of some adult witnesses about his qualifications for getting medical marijuana, his reply verbatim was " Hey man, you don't gotta be sick to get Mary-Jane. You just go to one of them clinics, lay down \$150.00 bucks, and tell' um your head hurts. They'll give you the "cert", help ya fill out the form, and you'll be outta there in ten minutes." Current statutes do not regulate the qualification of patients enough to prevent such end runs around the law.

> An associate editor for National Review magazine tells of his encounter with a marijuana clinic in Great Falls. He and a buddy were walking down a motel hallway on the way to the bar when a local salesman for the marijuana industry enticed them into a clinic to register for marijuana use. He says they were never asked for medical information or records as required by law, were given a doctor's certification, paid their \$150.00 and made it to the bar in just a few minutes. Existing statutes that regulate such problems are unenforceable a majority of the time. Thus, the marijuana industry seems to be able to circumvent many state restrictions with impunity.

> A Great Falls High School music teacher noted that a young lady in one of her classes came to school each day smelling strongly of marijuana. When questioned, the student said she smokes it often

when driving to school, gets it from her guardian [a grandmother she uses it with regularly] who, in turn, receives it from the girl's uncle who has a green card. She said it is the only thing that makes her feel good all over and was not concerned that her method of acquisition was illegal and not medically necessary. Because growing and distribution laws are not tight enough, such misappropriation of cannabis is common and seriously affects the physiological health and mental state of thousands of citizens.

>Although the cannabis industry claims "No one ever died from the use of marijuana", the Board of Medical Examiners found in an investigation of twenty applications for green cards that for five of those patients who subsequently died, marijuana had "...a significant or potentially significant impact on patient morbidity." Restrictions in current laws and distribution systems are not enforceable enough to prevent such deadly problems and need to be corrected.

### Constitutional Legality of Montana's Marijuana Laws

The congressional Enabling Act of 1889 gave the Territory of Montana the right to form a state complete with a constitution, laws, a legislature, and lower governments that will "... not be repugnant to the constitution of the United States and the principles of the Declaration of Independence." The preamble of the Constitution of the United States that the Enabling Act refers to, declares that it was written to form a more perfect union, establish justice, insure domestic tranquility, and promote the general welfare. All elected officials in our state swear an oath to uphold this constitution in every official action they perform. It is obvious that the marijuana laws passed by the Montana Legislature must abide by these lofty standards.

The currently enforced cannabis laws allow considerable personal harm, degrade our collective economy, weaken our social structure, debase the learning process of our educational institutions, reduce the efficiency of our governments, and decrease our quality of living. Laws that create such negative effects on tens of thousands of our citizens are certainly repugnant to the preamble of the U.S. Constitution. The current Title 50 laws concerning marijuana should be eliminated because they do not conform to the ideals of the national Constitution. Those laws should be rewritten to a condition that benefit's the people of our state as the 1889 Enabling Act requires.

### Flawed Montana Marijuana Laws

#### THE LAW-

50-46-102(1)(a) "Caregiver" means an individual 18 years of age or older who has agreed to undertake responsibility for managing the well-being of a person with respect to the medical use of marijuana. A qualifying patient may have only one caregiver at a time.

#### Obvious Problems-

- 1.] Nothing in the law or any follow on administrative regulations necessitates caregiver applicants to have any back ground, history, education, or experience that would qualify them, or contribute to the medical care of patients. That is particularly important for individuals who are giving mind altering chemicals to severely ill people.
- 2.] Nothing in the law or administrative rules stipulate any capability required of caregivers to determine frequency of doses based upon the established scientific principles of medical practice.
- 3.] Nothing in the law or administrative sections of those laws demand the caregiver should identify the correct dosage of marijuana that is right for each patient based upon the patients needs, body requirements, and the strengths of the types of cannabinoids being administered.
- 4.] Nothing in the law or administrative regulations states the level of training a caregiver must have to monitor patients for adverse reactions to marijuana, or what to do if such a reaction occurs, or how to identify such problems and their causes.
- 5.] Nothing in the law or administrative rules identifies the standards of cleanliness purity of product, and sterilization needed when patients with communicable diseases are being treated.

6.] Nothing in the law or administrative rules refuses a caregiver certificate to any applicant who may have a disease that might be communicated to the patient during treatment. That is particularly important in the case of cachexia, severe nausea, Aids, and HIV related problems, which often attract caregivers to the drug in the first place.

7.] Nothing in the law or administrative sections of those laws instructs a caregiver on agricultural principles, soil analysis, and the safe use of various chemicals in their marijuana growing operations. Thus, marijuana cannot measure up to the strict scientific standards of purity prevalent in certified Food and Drug Administration approved prescriptions.

Obviously, the caregiver system, as expressed in the existing law and administrative rules, is insufficient to provide optimum and safe medical treatment involving marijuana to severely ill patients nor control the flagrant misuse associated with current caregiver laws. All parts of Title 50 statutes referring to caregivers should be eliminated.

#### THE LAW-

50-46-102(2) "Debilitating medical condition" defines the condition as various diseases or maladies without stipulating the level of discomfort that would trigger the use of marijuana or prescribe its strength. In several parts of Title 50 laws the word severe is used to define a level that would initiate marijuana use. Many people have requested and been given a marijuana regimen for minor discomfort related to problems such as menstrual cramps, head aches, stomach aches, and pulled muscles by claiming severe pain or nausea. While pain levels are very "patient subjective", there are medical examination routines that could be used to define the level of pain accurately enough to determine if established pharmaceuticals might be useable. If not, the law does not progress to the follow on application of marijuana therapy and strength of dosage required. The law is inadequate to define or require this very important knowledge thus contributing to common over dosage and misuse of the product. All parts of Title 50 laws referencing debilitating medical conditions should be removed. Those definitions are not accurate enough to truly determine if medical use of marijuana is necessary, nor contribute to the determination of what strength the doses need to be. They should be eliminated and rewritten to facilitate healthier, more truly beneficial distribution of marijuana products under a more sophisticated, relevant, and enforceable law.

#### THE LAW-

50-46-102(11) "Written Certification" means a qualifying patient's medical records or a statement signed by a physician stating that in the physician's professional opinion, after having completed a full assessment of the qualifying patient's medical history and current medical condition made in the course of a bona fide physician-patient relationship, the qualifying patient has a debilitating medical condition and the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient.

#### Obvious Problems-

1.] Nothing in the law provides a control over whether the patient's medical records and current medical condition are truly examined in enough detail to determine if the benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient. This doctor examination has supposedly occurred tens of thousands of times in Montana, yet we can only find evidence of twenty of them having ever been investigated. The very professional state Medical Examiners Board does not have the budget, personnel, or infrastructure to do a more adequate job of insuring that these rules are followed. That has allowed the patient qualification system provided by the law to be abused and circumvented many times. The inadequacy of this one part of the law has resulted in thousands of people acquiring a medical marijuana card without proving a truthful need for it. That has resulted in untold misery for many of our youth and others who have lost jobs, dropped out of school, and suffered ruined mental health because they could legally use medical marijuana unnecessarily. This inadequate method of patient qualification should be deleted from the law and rewritten in a manner that would facilitate tighter controls.

#### THE LAW-

50-46-201(2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana plants and one ounce of usable marijuana each.

Obvious Problems-

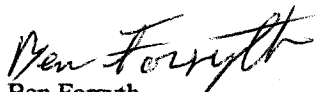
1.] Nothing in the law or the administrative regulations implementing the laws, control the type of plant used to treat specific medical problems, the strength of that plant's chemicals, the capability of various types of plants to meet different medical needs, nor balance the amount of cannabis each plant can produce in relation to the amount needed by the patient. This lack of regulation in the law has created numerous situations where use is only limited by supply thus leading to considerable over use. This, in turn, has resulted in the flooding of the black market, and the illegal shipping out of state, of excess product. Montana has become a marijuana exporting state and has raised the problems of law enforcement dramatically.

2.] The way this law is written provides almost twenty thousand small marijuana growing operations that are literally uncontrollable. Neither state government agriculture specialists, Medical Examiner Board employees, nor law enforcement personnel can possibly inspect, supervise, and regulate that many growing and dispensing efforts. The need for such controls by those agencies is essential to guarantee the purity, safety, and distribution of the product within the best interests of the patient. The current Title 50 laws dealing with growing marijuana should be eliminated and be rewritten to more carefully, legally, and scientifically allow marijuana agriculture.

3.] The average mature marijuana plant produces about one and one half pounds of product when harvested. If plants are raised on a staggered schedule so that one plant becomes harvestable every thirty days, that provides an average of 120 pipe bowls [or cigarettes] per month or about four per day. That is a tremendous excess of cannabis for the average patient and contributes to a significant availability of marijuana beyond the medicinal needs of the medical marijuana users. Such unsophisticated regulations in our laws create an excess of a very sellable product and has resulted in the flooding of the black market, and the illegal shipping out of state, of excess product.

### CONCLUSIONS

Current Montana laws does not provide definitions, enforceable controls, nor distribution of marijuana in a manner that prevents or reduces its many subtle harms and wide spread misuse within the established bounds of the Constitution of the United States. Flaws, lack of enforceable regulation, and short-sighted policies are so numerous, they have made a rewrite to fine tune current statutes impracticable. To correct the situation, the first step should be to eliminate the existing law to immediately reduce misuse. This should be a prelude to writing a more useable statute that will provide cannabis only as a last resort for citizens who honestly need it for truly medical purposes.



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Testimony March 11, 2011  
In favor of HB 161

My name is Kristi Drake, and I have a background in advertising and a master's degree in public relations. I have studied spin. We all know the craft of presenting an idea in a certain way to make it attractive.

*Cigarette industry agenda & spin:*

Back in the early 1900s the tobacco industry wanted to sell more cigarettes, and they saw an untapped market in a certain demographic: women. This was where spin was born- many doctors were sold on the idea of recommending their female patients to choose a cigarette over a sweet in order to lose weight. And a big promotional event was staged as a women's rights movement, when role models were asked to march down New York's 5<sup>th</sup> Avenue holding cigarettes as "torches of freedom."

Cigarettes became a symbol for a political idea, and the edgy new behavior of smoking in public caught on. There was evidence that smoking was detrimental to health, but the edginess of smoking outweighed the danger signs, and many years down the road, look where we are....

*The marijuana industry adopted the formula:*

The marijuana industry has taken this formula and applied it to their agenda for legalizing marijuana around the country. They too made it a political discussion about medical benefits, and you bought it. Certainly, people do feel relief from their pain when they smoke marijuana, just like women lit up instead of indulging, and they did lose weight.

*Risk factors for substance abuse:*

I work in substance abuse prevention now. Years of research show that community laws and norms that favor drugs, plus easy access to drugs, plus a perception that there is little risk of harm- all play into a person's acceptance of drugs. We have seen that marijuana use is on the rise- both nationally and in Montana, especially among teens. And it is no wonder when storefronts now grace our streets, showing citizens that drug use is legal and widely accessible. Think about it: if I asked 20 kids how long it would take them to get some marijuana, how long do you think they would say? Now let's add the "medical" label: when marijuana is deemed "medical," and patients are allowed to self-medicate, how are kids supposed to think it's harmful?

*Can of worms:*

The spin is working: you'll hear from people who will confirm, with dramatic testimony, how marijuana has saved them. But you may not hear the equally heart-wrenching stories of how marijuana has devastated lives. More teens are in treatment for addiction to marijuana now, more of Montana's children are trying pot before they're even 13, and stories are coming in from teachers and principals and school resource officers about children whose parents grow pot in their homes, and the mess it has created in those children's lives.

*Medical Marijuana has created an environment that favors drug use:*

The fact is that medical marijuana has created an environment that *favors drug use*, and like tobacco, we are seeing just the beginning of the devastation it inflicts on families and whole communities.

*Repeal:*

I am asking you as a prevention specialist to have the courage to close the can of worms medical marijuana has opened up. It makes no sense that our governments spends multiple millions of dollars on substance abuse prevention and treatment- and we're legalizing an addictive drug that people can grow and administer to themselves.

*Facts:*

Kristin Lundgren and I have carefully compiled facts for you as you consider what to do with medical marijuana. Please accept our Medical Marijuana Primer as a source of reliable facts, and feel free to give us a call if you have any questions.

Thank you for your time.